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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 ADAM RANDOLPH POWELL,

12 Plaintiff,

13 v.

14 JEFF LYNCH, et al.,

15 Defendants.
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No. 2:23-CV-0875-KJM-DMC-P

FINDINGS AND RECOMMENDATIONS

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18 42 U.S.C. § 1983. Pending before the Court is Plaintiff's original complaint, ECF No. 1.

19 On August 8, 2023, the Court issued an order addressing the sufficiency of
20 Plaintiff's complaint. See ECF No. 11. The Court determined that Plaintiff's complaint states
21 cognizable Eighth Amendment safety claims against Defendants Moirara and Lively arising from
22 a January 22, 2022, incident at the California Medical Facility. See id. The Court also
23 determined that Plaintiff's claims against the prison warden, Defendant Lynch, are insufficient.
24 See id. Plaintiff was provided leave to amend and cautioned that, if no amended complaint was
25 filed within the 30-day time period provided therefor, the action would proceed on Plaintiff's
26 safety claims against Defendants Moirara and Lively and that the Court would recommend
27 dismissal of Defendant Lynch. See id. As of November 2, 2023, Plaintiff had not filed an
28 amended complaint and the Court directed service on Defendants Moirara and Lively consistent

1 with the August 8, 2023, order. See ECF No. 12. The Court now recommends dismissal of
2 Defendant Lynch.

3 Based on the foregoing, the undersigned recommends as follows:

4 1. This action proceed on Plaintiff's complaint, ECF No. 1, as to Plaintiff's
5 Eighth Amendment safety claim against Defendants Moirara and Lively.

6 2. Plaintiff's claims against Defendant Lynch be DISMISSED for failure to
7 state a claim.

8 These findings and recommendations are submitted to the United States District
9 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
10 after being served with these findings and recommendations, any party may file written objections
11 with the Court. Responses to objections shall be filed within 14 days after service of objections.
12 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.
13 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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15 Dated: January 11, 2024



16 DENNIS M. COTA
17 UNITED STATES MAGISTRATE JUDGE
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